

Exhibit 16

Transcript of the Testimony of
WAYNE BERRY

Date: August 13, 2007

Case No.: CV03-00385

Case: BERRY v. HAWAIIAN EXPRESS SERVICE, INC.

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1 been paid anything for it?
 2 A No.
 3 Q Other than the HEX settlement, have you ever
 4 been offered anything for it?
 5 A Same as the answer to the previous one, 32.
 6 Q And if I understood your answer correctly,
 7 you may have been offered something but you don't
 8 know from whom and you don't know how much?
 9 A Right.
 10 Q Number 34, FCS1993, crystal report, load
 11 plan, version 1.0. You're the author?
 12 A Yes.
 13 Q Other than the HEX settlement, have you ever
 14 been paid anything for it?
 15 A No.
 16 Q Other than the HEX settlement, have you ever
 17 been offered anything for it?
 18 A Again, be the same as the previous answers.
 19 Q Which is it's possible but --
 20 A It's possible in the context of business
 21 negotiations people comparing old to current doing
 22 something.
 23 Q It's possible but you don't know who would
 24 have made the offer or how much they would have
 25 offered, correct? Sorry --

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1 A Yes. I'm sorry.
 2 Q The answer is yes. Okay.
 3 35. Is your answer the same? You're the
 4 author, you've never been offered anything for it
 5 except in the HEX settlement and you've never been
 6 offered anything from anybody else that you can
 7 recall as you sit here today?
 8 A Correct.
 9 Q Is the same true for number 36?
 10 A Correct.
 11 Q Is the same true for number 37?
 12 A Yes.
 13 Q Have you submitted anything to the United
 14 States Copyright Office other than the 37 items
 15 listed on Exhibit E?
 16 A I think so.
 17 Q What else?
 18 A I don't recall.
 19 Q Well, you named one thing today when you
 20 said you had sent the copyright office a copy of the
 21 document that you call Second Addendum, right?
 22 A I think so.
 23 Q What else?
 24 A As I say, I don't recall. And I'm not sure
 25 if I actually sent that or if it's waiting to be

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1 sent. But it is packaged up to go. But there has
 2 been communication regarding it as to how to file it.
 3 Q Okay.
 4 A I might have a copy of it. I think I did
 5 give a copy.
 6 Q I take it you considered that document to be
 7 an asset of yours?
 8 A I'm not sure. I know it's a liability of
 9 yours.
 10 Q And to whom is that liability owed?
 11 A Oh, me.
 12 MR. SMITH: Okay. I have a few minutes
 13 left. I want to take a quick recess and finish.
 14 (Recess taken.)
 15 Q (By Mr. Smith) Mr. Berry, you made reference
 16 to seeking an annulment. Where has that been filed?
 17 A I'm in the process of filing it in Las
 18 Vegas.
 19 Q Okay. So nothing has been filed to date
 20 regarding --
 21 A I don't know how that works. You fill out
 22 the form and things.
 23 Q Are you represented by counsel in that
 24 matter?
 25 A No.

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1 Q You're doing that pro se? Have you filled
 2 out the forms already?
 3 A Yes.
 4 Q Have you sent them someplace?
 5 A That's what I'm not too sure 'cause you do a
 6 lot of this stuff on the internet and I don't know
 7 how -- I've not done this before.
 8 Q I'm just asking what you have done.
 9 A I filled out a form and I made some phone
 10 calls to immigration and to guys in Vegas and I've
 11 done, you know, I think a lot of things. I've
 12 basically got a -- I got to make some copies and send
 13 it and I think it's pretty much done.
 14 Q Have you consulted with counsel regarding
 15 this?
 16 A No.
 17 Q Have you directly or through an agent
 18 communicated with your wife's counsel?
 19 A No. I don't think so.
 20 MR. HOGAN: Can you identify the counsel so
 21 we'll know who you're talking about?
 22 THE WITNESS: When did you talk to her?
 23 MR. SMITH: I've spoken with her a couple
 24 times but that's -- I'm the guy that asks the
 25 questions today.

29 (Pages 113 to 116)

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1 MR. HOGAN: I'll state for the record that I
 2 did speak with her and she said you informed her that
 3 you were Wayne Berry's attorney. So we'll put that
 4 on the record, oh, king of ethics.
 5 THE WITNESS: That's a tough one.
 6 Q (By Mr. Smith) So have you, to your
 7 knowledge, have you communicated with Ms. Brawley
 8 regarding your domestic proceeding?
 9 MR. HOGAN: What was the question?
 10 MR. SMITH: Whether to his knowledge, he has
 11 through a representative, communicated with Ms.
 12 Brawley regarding his domestic proceeding.
 13 MR. HOGAN: And define domestic proceeding.
 14 MR. SMITH: Divorce, annulment or any
 15 similar matter.
 16 THE WITNESS: No. It's my understanding
 17 that shortly when they got the stuff together and
 18 it's reviewed, they serve it and I don't have to do
 19 that stuff.
 20 Q (By Mr. Smith) Who, do you understand, is
 21 going to serve something -- this is something in Las
 22 Vegas?
 23 A Yes.
 24 Q It's your understanding that they're going
 25 to serve your wife with it?

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1 A Yes.
 2 Q That's what the court in Las Vegas is going
 3 to take care of that?
 4 A I don't know who does what.
 5 Q Okay. Did you provide any information
 6 relating to your assets in connection with what
 7 you've sent to Las Vegas?
 8 A No. It's an annulment.
 9 Q So the answer is no?
 10 A I don't -- who knows what the judge will ask
 11 for but I haven't yet.
 12 Q So far you've provided nothing related to
 13 your assets or your income?
 14 A Right.
 15 MR. SMITH: That's all the questions I have.
 16 Thank you for coming.
 17 (Concluded at 2:35 p.m.)
 18 --oo0oo--
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1 WITNESS' CERTIFICATE
 2 I, WAYNE BERRY, certify that I have read the
 3 foregoing typewritten pages 1 to 118, inclusive, and
 4 corrections, if any, were noted by me, and the same
 5 is now a true and correct transcript of my testimony.
 6 Dated: This ____ day of _____,
 7 2007.
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 17 Signed before me
 18 this ____ day of _____, 2007.
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WAYNE BERRY

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1 STATE OF HAWAII)
) SS.
 2 CITY AND COUNTY OF HONOLULU)
 3 CERTIFICATE
 4 I, PRISCILLA GONZAGA, a Notary Public of the
 5 State of Hawaii, do hereby certify:
 6 That WAYNE BERRY, the witness whose
 7 deposition is contained herein, appeared before me on
 8 August 13, 2007;
 9 That prior to being examined, he was by me
 10 duly sworn;
 11 That the foregoing represents, to the best
 12 of my ability, a full, true and correct transcript of
 13 the proceedings had in the above-entitled cause;
 14 That prior to the filing of the deposition,
 15 the witness was notified of his right to make any
 16 corrections and/or changes he deems necessary to
 17 render his testimony true and correct;
 18 That if the deposition is filed without the
 19 witness' signature, the witness has failed to appear
 20 and the deposition is therefore filed under a waiver
 21 of signature pursuant to Rule 30 (e) of the Hawaii
 22 Rules of Civil Procedure;
 23 That I am not attorney for and not related
 24 to any of the parties hereto nor in any way
 25 interested in the outcome of said action.
 Dated: This ____ day of _____,
 2007.
 Priscilla Gonzaga, CSR No. 127
 My commission expires: 8/19/10

30 (Pages 117 to 120)

WAYNE BERRY

8-13-2007

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